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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,630	09/22/2000	Martin De Loya	Q60934	8145
7590	07/16/2004		EXAMINER	
Sughrue Mion Zinn MacPeak & Seas PLLC Suite 800 2100 Pennsylvania Avenue NW Washington, DC 20037-3213			NGUYEN, HANH N	
			ART UNIT	PAPER NUMBER
			2662	
			DATE MAILED: 07/16/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/667,630	DE LOYE, MARTIN
	Examiner Hanh Nguyen	Art Unit 2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 28 April 2004.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) All b) Some \* c) None of:

        1. Certified copies of the priority documents have been received.

        2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

        3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    \* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

    a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .      6) Other: \_\_\_\_\_ .

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by **Vaziri et al.** (US Pat. No. 6,377,570 B1).

In claims 1, 2, 4, 5, 7, 8 and 10, **Vaziri et al.** discloses, in Fig.9, a standard telephone 211 HD (an analog telephone) coupled to a data terminal 908 (internet connection terminal) via an Internet switch box 100HD (connecting means comprising switching circuit for connecting telephone to Internet connection terminal). The standard telephone and the Internet terminal are connected to Internet 906 via PSTN 902 (analog telephone and Internet terminal connected to Internet via a telephone network). The switching box receives a switch-over-command to switch from PSTN connection to Internet connection and vice versa (connecting telephone to the

Internet terminal in accordance with switching instructions from server). See col.24, lines 55-65.

The switching box contains embedded software (switching instructions) executed by a microprocessor 201 ( sending means, Fig.2, col.10, lines 1-5) for establishing a connection to ISP. The Internet switch box (ISB, see Fig.2) (switching means) is activated by pressing buttons (switch circuit is mannualy controlled) on the Internet switch box to switch to Internet telephone (a switching means for connecting the telephone to the Internet terminal).

In claims 6 and 9, **Vaziri et al.** do not disclose the switching program is written in Java. Java is a universal programming lanuage used by one skilled in the art. Therefore, it would have been obvious to one ordinary skill in the art to use the Java language to write switching program in the switching box of **Varziri et al.**

In claims 11, 12, **Vaziri et al.** discloses, in Fig.9, that the customer 900C is remotely programmed from the agent help desk (downloading program from Internet) . The customer is instructed to dial \*0# into telephone 211C ( switching instructions is sent from the server). See col.22, lines 47-65. Therefore, it would have been obvious to one ordinary skill in the art to download as switching program from an Internet site.

In claim 3, the limitations of this claim has been addressed in claims 1, 11 and 12.

*Response to Arguments*

12  
Applicant's arguments with respect to claims 1-~~10~~ have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Miloslavsky et al. (US Pat. No.6,625,139 B2) discloses Apparatus and Method for Coordinating Internet Protocol Telephone and Data Communications.

Whittaker (US Pat. No. 6,125,177) discloses Telephone Communications Network with Enhanced Signalling and Call Routing.

Mattaway et al. (US Pat. NO. 6,275,490 B1) discloses Method and Apparatus for Establishing Communications from Browser Application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 703 306-5445. The

examiner can normally be reached on Monday-Friday from 8AM to 4:30PM. The examiner can also be reached on alternate

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on 703 305-4744. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hanh Nguyen

  
July 10, 2004